

CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development Michael J. Kruse, Director

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Public Hearing Date:

Land Use Action Date:
Board of Aldermen Action Date:

90-Day Expiration Date:

January 10, 2006 March 7, 2006 March 20, 2006

April 10, 2006

TO:

Board of Aldermen

FROM:

Michael Kruse, Director of Planning and Development

Nancy Radzevich, Chief Planner

DATE:

January 6, 2006

SUBJECT:

Petition #285-04(2) BLOOMINGDALE'S DEPARTMENT STORES, INC./FEDERATED DEPARTMENT STORES, INC. petition to AMEND SPECIAL PERMIT/SITE PLAN APPROVAL #285-04, dated August 9, 2004, granting a 5-YEAR permit to erect a temporary tent and temporarily displace approximately 90 parking spaces to hold an annual rug sale not to exceed 15 days in August; the proposed amendment seeks to change the date of the sale to MAY (the 16th through the 29th) at 225 BOYLSTON STREET, CHESTNUT

HILL, Ward 7.

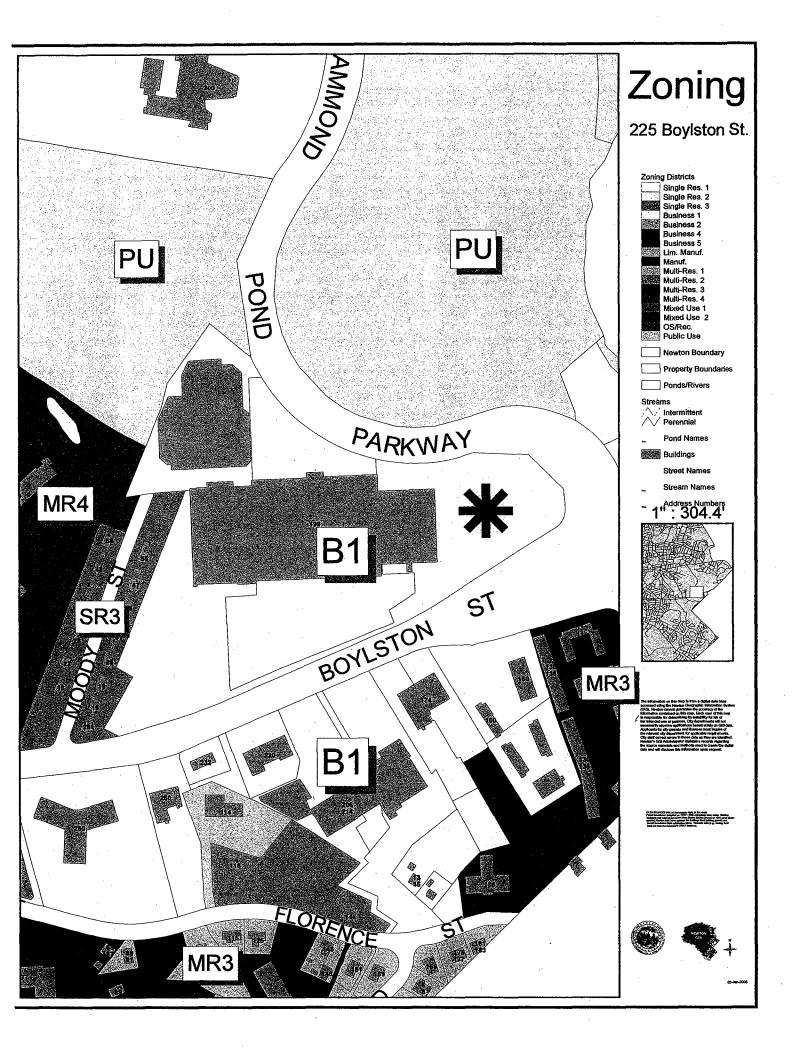
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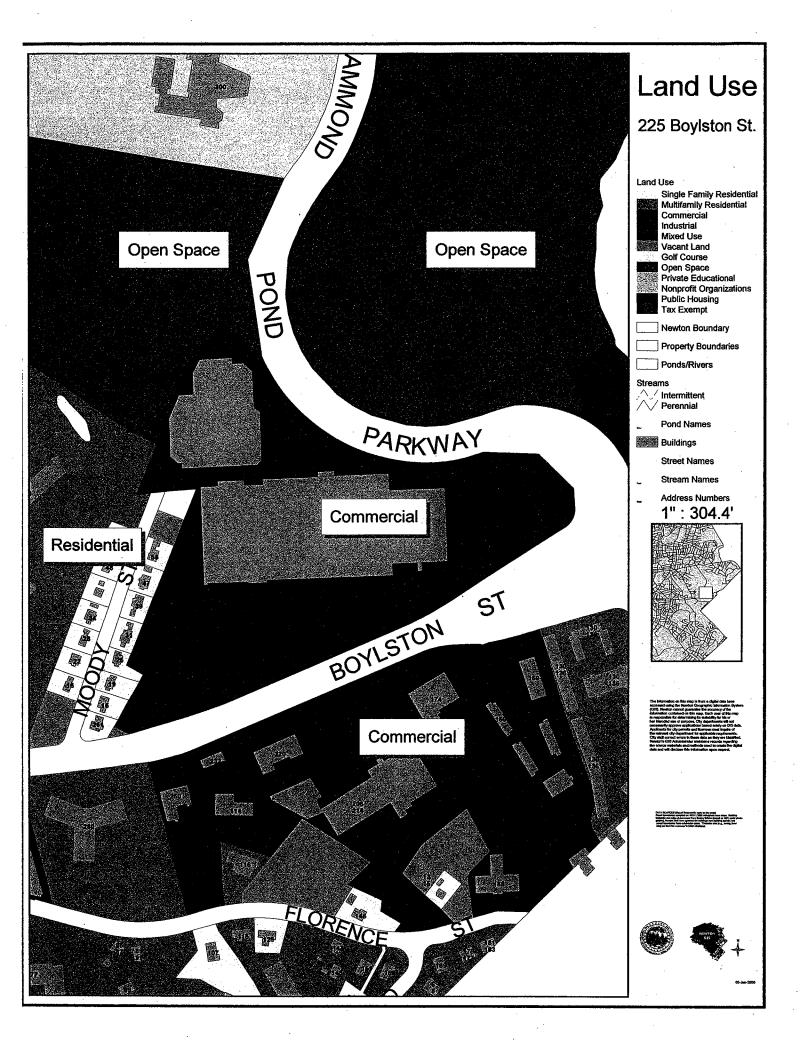
Mayor David B. Cohen

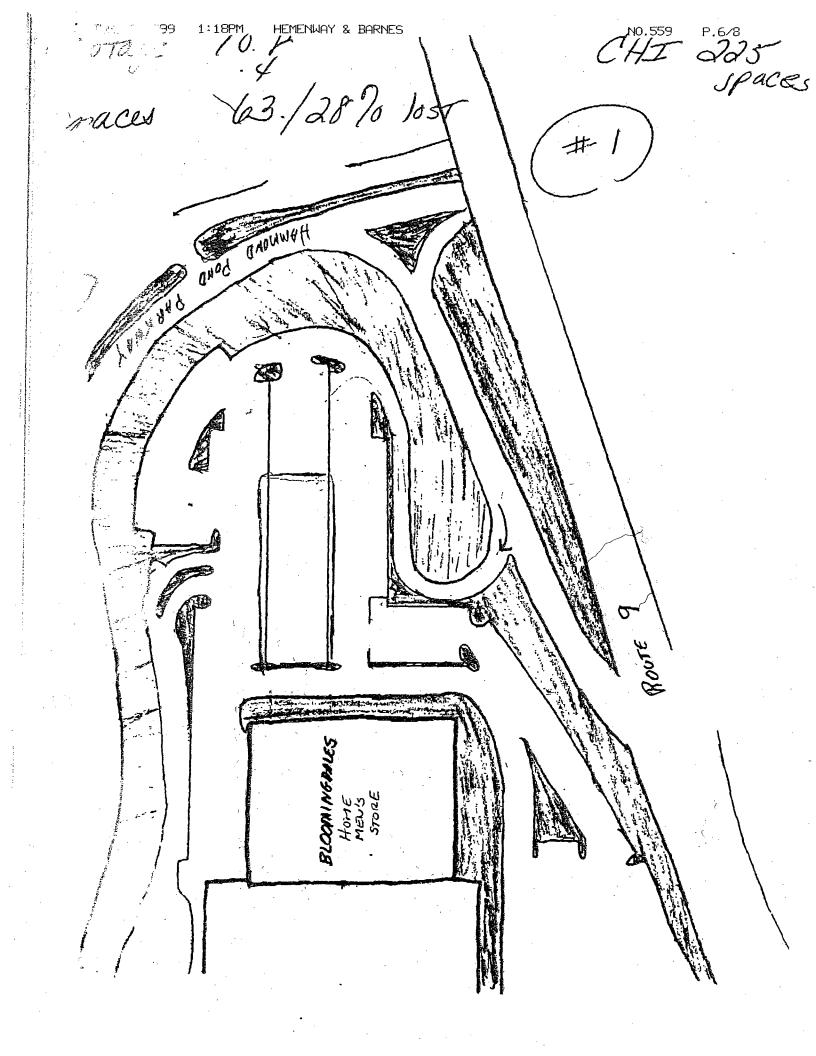
The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information that will be presented at or after the public hearing that the Land Use Committee will consider in its discussion at a subsequent Working Session.

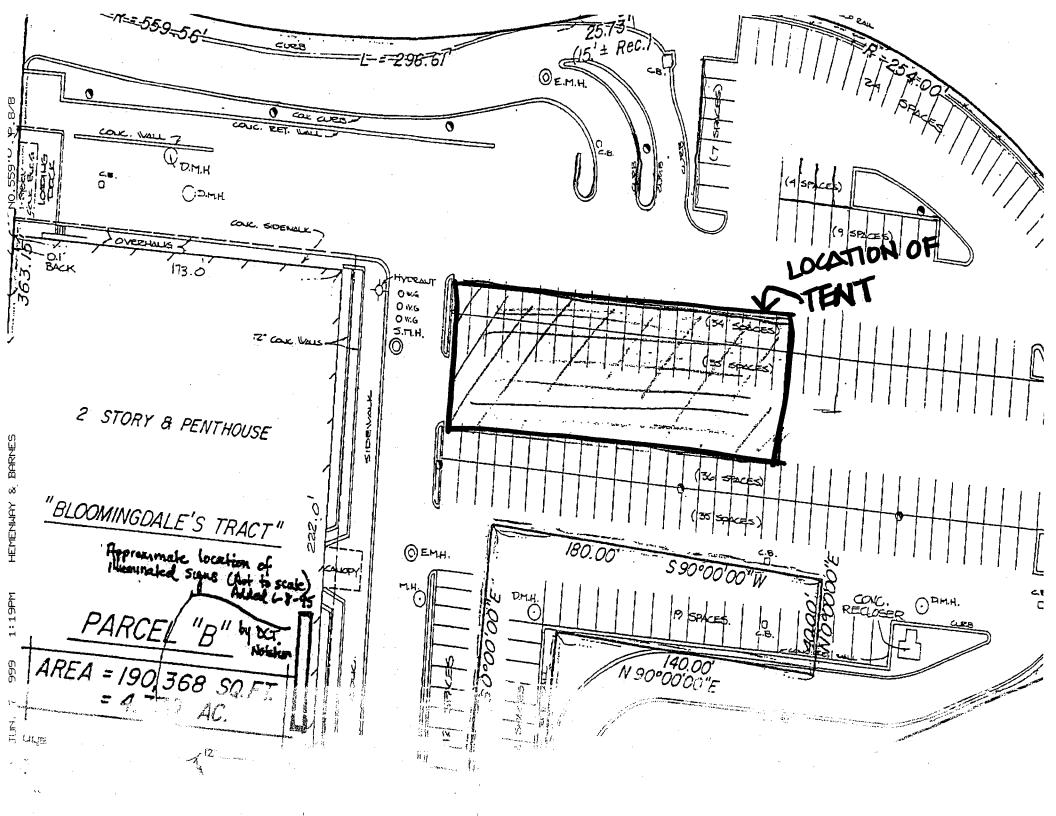
EXECUTIVE SUMMARY

On August 9, 2004, the petitioner was granted a special permit (Board Order #285-04) to allow them to hold their outdoor annual rug sale, for a period of not more than 15 days in August, generally between August 24th and September 6th. This Board Order allowed them to hold the rug sale, annually, for a period of 5 years. The petitioner is currently proposing to change the date of the annual rug sale to May 16th through May 29th for 2006. The petitioner has not requested any other changes to the existing special permit.









I. BACKGROUND AND ELEMENTS OF THE PETITION

Bloomingdale's Department Stores, Inc. is seeking an amendment to their Special Permit (#285-04) to allow for a change in the dates of their annual outdoor rug sale from late August to late May.

During the first two years (1996-1997) that the outdoor rug sale was held, the petitioner used a 60' x 180' tent, which temporarily displaced 66 parking spaces. In 1998, a more durable pole-less tent was used. This tent was larger than the previous tent (82' x 246') and displaced 90 parking spaces. Each of these first three years, the petitioner filed separate but similar petitions to allow for the erection of a temporary tent and the temporary displacement of parking spaces for a special outdoor rug sale at the end of August. (Board Orders #193-96, #168-97 and #248-98).

In 1999, the petitioner asked for and the Board granted a Special Permit to allow them to erect the temporary tent, for not more than 15 days, between August 15th and Labor Day, for five consecutive years (Board Order #204-99). In 2004, the Board granted a similar 5-year special permit, which allowed for the "an open air sales event of not more than 15 days in duration....to occur generally between August 24th and September 6th, and which will displace not more than 90 parking spaces." (SEE ATTACHMENT "A") The sale has seemingly occurred without any parking problems or inconvenience to shoppers or travelers in the area. The Planning Department has confirmed that no complaints have been filed with respect to this event with the Inspectional Services Department.

One reason the late August time period had been selected, in the past, is because it is typically a slow period for Bloomingdale's. As such, the temporary displacement of 90 parking spaces did not appear to be a concern. Presently, the petitioner is seeking an amendment to that special permit to allow for the date of the rug sale to be changed to May 16th through May 29th for 2006. Bloomingdale's has noted that the time between Mothers Day and Memorial Day is a similarly slow period, which is an opinion shared by Thomas F Smith Jr., Mall Manager, in the attached correspondence dated January 10, 2005. (SEE ATTACHMENT "B") He goes on to say that he does not believe this will negatively impact parking or access.

II. ZONING RELIEF BEING SOUGHT

The petitioner is seeking an amendment to Board Order #285-04, in order to allow for the dates of the outdoor annual rug sale to be held from May 16th through May 29th for 2006.

The previous Special Permit allowing the petitioner to hold an annual rug sale in a temporary tent erected in the parking lot was granted through the following sections of the Zoning Ordinance:

- Section 30-11(d)(10) for special permit approval of an open air business, and
- Section 30-19(m), for special permit approval to waive strict adherence to parking requirements, to allow for the temporary displacement of up to 90 parking spaces.

III. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board of Aldermen should consider whether the change of dates for the rug sale event would have any adverse impacts on access/egress, pedestrian or vehicle circulation or parking capacity at the site during the proposed time frame.

IV. CHARACTERISTICS OF THE SITE AND NEIGHBÖRHOOD

A. Site

The 190,368 sf. subject property is located at 225 Boylston Street (Section 65, Block 8, Lot 9, Parcel 5) in a Business 1 district. The site contains several large, mid-century era retail buildings that along with other adjacent properties comprises the Mall at Chestnut Hill. The structures are used mainly for retail and commercial uses, and are serviced by parking areas comprising of several hundred parking spaces. The outdoor rug sale has taken place annually, within a temporary tent, in the parking lot adjacent to Bloomingdale's Department Store.

B. Neighborhood

The subject property is located along Route 9/Bolyston Street, in the Chestnut Hill Area, near Hammond Pond Parkway. The surrounding neighborhood includes retail, commercial and service uses the to the east and west, along the Route 9/Boylston Street corridor, and predominantly residential areas to the north and south.

V. ANALYSIS

A. Relevant Site Plan Approval Criteria, Sec. 30-23

1. Convenience and safety of vehicular and pedestrian movement within the site

The annual rug sale at Bloomingdale's has proceeded largely without incident for several years, which led the Board to approve five-year special permits (in 1999 and again in 2004) allowing the annual event to occur generally during the last two week of August through Labor Day weekend.

Based on the petitioner's parking survey, that included two sample dates in 2005, Saturday, May 28th and Monday, May 30th – Memorial Day, there was a fairly significant number of vacant spaces (41-74) in the lot, between 12:00 noon and 5:00 p.m. (SEE ATTACHMENT "C"). In reviewing past files, the only previous data on parking counts that the Planning Department could find were those submitted with the original application in 1996. It is interesting to note that although that special permit and all subsequent approvals, allowed for the event to be held generally around Labor Day, the data submitted with that application included parking counts taken on the three weekends around and including Memorial Day. (NOTE: Although this earlier data showed a significant number of vacant spaces at most times during the study periods, the Planning Department does not believe that this data is still relevant, as it is almost 10 years old.)

The Planning Department notes that the Mall Manager has submitted a letter in support of the change in dates, indicating that the period between Mothers Day and Memorial Day weekend "...is not a peak selling season and therefore will not negatively impact parking or access..."

While it would appear unlikely that the Mall Manager would support the change if he had any concerns about the temporary loss of parking spaces during the currently proposed dates, the data submitted with this application indicates that there may be a parking shortage due to the temporary displacement of the 90 parking stalls.

The Planning Department recommends that if the Board grants this amendment to change the date from the end of August to the end of May for 2006 that the petitioner be permitted to continue to hold the rug sale, at the end of May, through the duration of the current Board Order, as long as the they provide sufficient evidence to the City Traffic Engineer and Transportation Planner, that the end of May event, does not have any adverse impacts on site circulation and/or the surrounding neighborhood.

B. Relevant Special Permit Criteria, Sec.30-24

1. The specific site is an appropriate location for such use/structure

The rug sale event has been held in the same location within the parking lot on premises in past years and has been approved by previous Board Orders as an appropriate use for the site and location in question. The petitioner is not requesting to change the location or function of the event, but merely the dates during which it is to take place. While the site appears to the appropriate for this temporary event, it is not clear whether the change in dates would be appropriate given that there may be a parking shortage during the rug sale. (SEE ALSO COMMENTS IN SECTION IV. A. 1., ABOVE).

2. The use as developed and operated will not adversely affect the neighborhood.

In theory, the proposed change in dates for the rug sale should not have an adverse impact on the neighborhood, as the event is solely contained on-site, however, based upon parking counts taken over Memorial Day weekend in 2005, it appears that there may be a parking shortage, during certain days when the event will be held. It is not clear whether the would have any adverse impacts on the surrounding neighborhood. Further, without comparative parking counts for the end of August, it is difficult to determine whether the change in date would have any additional effects on traffic circulation on and to/from the site. (SEE ALSO COMMENTS IN SECTION IV. A. 1., ABOVE).

VI. SUMMARY

The petitioner is seeking to change the dates during which the annual rug sale event at Bloomingdale's Department Store at 255 Boylston Street has been held, generally, in late August through Labor Day weekend to between May 16th and May 29th (Memorial Day weekend) for 2006. The temporary tent will be in the same location and is still expected to displace up to 90 parking spaces. The petitioner is not requesting any additional changes to the special permit.

The rug sale event has been held without major incident for the past several years, over the Labor Day weekend. The Mall Manager has submitted correspondence indicating the current proposed dates do not coincide with a peak shopping period and, as such, he does not believe there will be any impacts related to change in dates. The parking counts submitted from last year, indicate that there may be a parking shortage, during the event, as the data shows that during the study periods, there were as few as 41 open spaces. Further, it is not clear whether there will be any *additional* adverse impacts from the temporary loss of the parking spaces, related to the change in dates, since no comparable parking counts were submitted for the current event timeframe.

The Planning Department recommends that if the Board grants this amendment to change the date from the end of August to the end of May for 2006 that the petitioner be permitted to continue to hold the rug sale, at the end of May, through the duration of the current Board

Order, as long as the they provide sufficient evidence to the City Traffic Engineer and Transportation Planner, that the end of May event, does not have any adverse impacts on site circulation and/or the surrounding neighborhood.

If approved, the Planning Department recommends a condition be added, as follows:

If the Petitioner intends to hold their annual outdoor rug event for not more than 15 days, generally between May 12th through 28th, 2007 and 2008, then at least 8 weeks prior to the proposed 2007 May event, the petitioner should submit to the City Traffic Engineer and Transportation Planner a Parking Study for review. The Parking Study should cover at least 5 days, during the May 2006 event, of which one day should be over the Memorial Day weekend. If the City Traffic Engineer and Transportation Planner are satisfied that the event does not result in any significant parking or pedestrian/vehicular circulation issues, and as long as the Commissioner of Inspectional Services has not received any complaints related parking, on-site circulation, and/or vehicular access to/from the site, then the Commissioner of Inspectional shall be permitted to grant the temporary event permits for May 2007 and 2008.

ATTACHMENT A

#285-04

CITY OF NEWTON

IN BOARD OF ALDERMEN

August 9, 2004

SECOND TO THE SECOND SE

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, the following SPECIAL PERMIT/SITE PLAN APPROVAL is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefore, through its Chairman, Alderman George E. Mansfield:

- 1. The Board finds that there is sufficient parking to accommodate the special event sale because the event will occur at a time when parking demand is low.
- 2. The Board finds that there is no anticipated substantial change to the use of the special event (tent sale of carpets)

PETITION NUMBER:

#285-04

PETITIONER:

Bloomingdale's

Department

Stores,

Inc./Federated

Department Stores, Inc.

LOCATION:

255 Boylston Street, Chestnut Hill, Section 65, Block 8, Lot

99, Parcel 5, containing approximately 190,368 sq. ft. of land.

OWNER:

Federated Department Stores

ADDRESS OF OWNER:

7 West Seventh Street Cincinnati, Ohio 45202

TO BE USED FOR:

An annual open air sales event of not more than 15 days in duration which is to occur generally between August 24th and September 6th and which will displace not more than 90

parking spaces.

CONSTRUCTION:

Temporary fabric tent

EXPLANATORY NOTE:

Section 30-11(d)(10) allows that Board of Aldermen to grant a special permit for an open air Allesiness; and Section 30-

19(m) allows the Board of Aldermen **A**

City Clerk of Newton, Mass

to waive strict adherence to the parking requirements.

Land referred to is in a Business 1 District.

Approved, subject to the following conditions:

- 1. All buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with a concept plan shown in the report of the Newton Department of Planning and Development, submitted for the public hearing on June 11, 1996.
- 2. If the petitioners intend to seek permission to continue the tent sale beyond the five (5) years authorized by this Board Order, the petitioners shall conduct a parking demand survey during the summer of 2008 (not necessarily during the time of the tent sale), and such survey shall be submitted with the re-application for continued tent sales.
- 3. All conditions of previous board orders shall remain in effect except as amended by this Board Order.
- 4. This Board Order shall expire five (5) years from the date of approval.
- 5. The Fire Department approves the material and location of the tent.
- 6. The Inspectional Services Department approves the circulation within the tent.
- 7. Use of the temporary tent is allowed for not more than 15 sale days, generally between August 15th and Labor Day.
- 8. The Planning Department shall review the annual administrative application for consistency with this approved Board Order.
- 9. The tent shall be no larger than 82 ft. x 246 ft. and shall displace not more than 90 parking spaces.
- 10. The hours of use for the tent are no longer than those for the store.
- 11. No building permit shall be issued pursuant to this SPECIAL PERMIT/SITE PLAN APPROVAL and until:
 - a. The Fire Department has given its approval as required in Condition #5.
 - b. The petitioner has complied with all State Building Code requirements for temporary

Chy Cierk of Newton, Mass.

structures.

- c. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
- d. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.

Under Suspension of Rules Readings Waived and Approved 20 yeas 0 nays 4 absent (Ald. Gerst, Parker, Sangiolo, and Yates)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on <u>August 11, 2004</u>. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

(SGD) EDWARD G. ENGLISH, City Clerk

Clerk of the Board of Aldermen

Clerk of the Board of Aldermen

Flund Finucate

I, Edward G. English, as the <u>Clerk of the Board of Aldermen</u> and keeper of its records and as the <u>City Clerk</u> and official keeper of the records of the <u>CITY OF NEWTON</u>, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the <u>Office of the City Clerk</u> on _____ and that <u>NO APPEAL</u> to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:

(SGD) PDWARD 6. ENGLISH, City Clerk

Clerk of the Board of Aldermen

A True Copy Attest

City Clark of Newton, Mass.

January 10, 2005

City of Newton Board of Aldermen Newton City Hall 1000 Commonwealth Ave. Newton Centre, MA 02459

RE: Bloomingdale's Request for Special Sale Event

Dear Board,

This letter will serve to express my support and approval for Bloomingdale's to perform an annual rug sale event in the eastern parking field adjacent to their building located at The Mall at Chestnut Hill. It is my understanding that this event will take place during the last two weeks of May after Mothers Day and continuing through Memorial Day weekend. This period is not a peak selling season and therefore will not negatively impact parking or access. Should you have any questions or concerns please contact my office.

Sincerely,

Thomas F. Smith Jr., CMD,CSM Mall Manager

Cc: Lease File

Please feel free to contact me if you need further assistance.

BLOOMINGDALE'S CHESTNUT HILL PARKING SURVEY

MEMORIAL DAY WEEKEND - 2005

TIME	Saturday May 28,2005	Monday May 30, 2005
12:00 noon	68	74
1:00 pm	64	65
2:00 pm	41	47
3:00 pm	46	53
4:00 pm	48	50
5:00 pm	55	69

Numbers reflect numbers of empty spaces.